

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

AUTUMN CASHMERE, INC.,

Plaintiff,

vs.

Case No. 08-CV-11593  
HON. GEORGE CARAM STEEH

MING XIONG, and  
IMMA, LLC,

Defendants.

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ORDER ACCEPTING AUGUST 19, 2009 REPORT AND RECOMMENDATION (# 38)  
AND DENYING PLAINTIFF'S MOTION FOR DEFAULT (# 30)

Plaintiff Autumn Cashmere, Inc. filed a motion for entry of default against defendants Ming Xiong and IMMA, Inc. for failing to comply with this court's May 26, 2009 Order granting in part plaintiff's motion to compel discovery. The matter was referred to Magistrate Judge Mona Majzoub. Magistrate Judge Majzoub issued an August 19, 2009 Report and Recommendation recommending that the motion be denied because plaintiff failed to demonstrate that the defendants acted willfully or in bad faith in responding to plaintiff's discovery requests, and failed to make a strong showing of resulting prejudice. Magistrate Majzoub also finds that the motion should be denied because defendants were not previously warned that default judgment would enter against them if they did not comply with the court's discovery orders, and less drastic discovery sanctions are available.

"A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."

28 U.S.C. § 636(b)(1)(C). See also Fed. R. Civ. P. 72(b). "A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Plaintiff has not filed timely objections. The court has reviewed the Report and Recommendation and is in agreement with its reasoning. Accordingly,

IT IS ORDERED that the Magistrate Judge's August 19, 2009 Report and Recommendation is hereby ACCEPTED as the findings and conclusions of this court. Plaintiff Autumn Cashmere, Inc.'s motion for entry of default against defendants Ming Xiong and IMMA, Inc. as a discovery sanction is hereby DENIED.

SO ORDERED.

Dated: September 9, 2009

s/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on September 9, 2009, by electronic and/or ordinary mail.

s/Josephine Chaffee  
Deputy Clerk